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NOT FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON
U.S. COURT OF APPEALS**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARGARITO PINUELAS-SANCHEZ,

Defendant - Appellant.

No. 02-10443

D.C. No. CR-02-00085-CKJ

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Cindy K. Jorgenson, District Judge, Presiding

Argued and Submitted September 11, 2003
Pasadena, California

Before: BEEZER, FISHER, Circuit Judges, and ENGLAND**, District Judge.

Margarito Pinuelas-Sanchez appeals the district court's imposition of a sentence following his guilty plea conviction for conspiracy to possess with intent

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The Honorable Morrison C. England, Jr., United States District Judge for the Eastern District of California, sitting by designation.

to distribute five kilograms or more of cocaine, in violation of 21 U.S.C. § 846, and possession with intent to distribute five kilograms or more of cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A)(ii) and 18 U.S.C. §2. We have jurisdiction pursuant to 18 U.S.C. § 3742 and 28 U.S.C. § 1291. We affirm.

Pinuelas-Sanchez contends that the district court erred in finding that he did not qualify for relief under the “safety-valve” provision of U.S.S.G. § 5C1.2. We review the district court’s factual determination that Pinuelas-Sanchez did not qualify for such relief for clear error. *See United States v. Lopez-Sandoval*, 146 F.3d 712, 714 (9th Cir. 1998).

The district court found that Pinuelas-Sanchez was ineligible for safety-valve relief because he did not give the Government all the information that he had regarding the offense. This finding was not clear error. *See United States v. Thompson*, 81 F.3d 877, 879 (9th Cir. 1996).

Pinuelas-Sanchez also asserts that he was eligible for a downward departure due to aberrant behavior pursuant to U.S.S.G. § 5K2.20. We disagree. Because Pinuelas-Sanchez was convicted of a serious drug trafficking offense, the district court properly concluded that it lacked authority for a downward departure. *See* U.S.S.G. § 5K2.20(3).

AFFIRMED.